IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 630 of 2003
in
SPECIAL CIVIL APPLICATION No 5682 of 2003
with
CIVIL APPLICATION No 4287 of 2003
with
LETTERS PATENT APPEAL No 631 of 2003
in
SPECIAL CIVIL APPLICATION No 5592 of 2003
with
CIVIL APPLICATION No 4288 of 2003
with
LETTERS PATENT APPEAL No 632 of 2003
in
SPECIAL CIVIL APPLICATION No 5684 of 2003
with
CIVIL APPLICATION No 4291 of 2003
with
LETTERS PATENT APPEAL No 633 of 2003
in
SPECIAL CIVIL APPLICATION No 7176 of 2003
with
CIVIL APPLICATION No 4297 of 2003
with
LETTERS PATENT APPEAL No 634 of 2003
in
SPECIAL CIVIL APPLICATION No 7165 of 2003
with
CIVIL APPLICATION No 4299 of 2003
with
LETTERS PATENT APPEAL No 635 of 2003
in
SPECIAL CIVIL APPLICATION No 7166 of 2003
with
CIVIL APPLICATION No 4301 of 2003
with
LETTERS PATENT APPEAL No 636 of 2003
in
SPECIAL CIVIL APPLICATION No 5676 of 2003
with
CIVIL APPLICATION No 4303 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAHESHKUMAR KESHAVLAL GANDHI

Versus

VADODARA DIST.CO OP MILK PRODUCERS UNION LTD.

Appearance:
MR MIHIR JOSHI, Advocate for
MR ANSHIN H DESAI for the Appellant/Applicant
MR BS PATEL for Respondent No. 1
MS. HARSHA DEVANI, AGP for Respondent No. 2-3

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE KUNDAN SINGH

Date of decision: 15/07/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

#. Admit. Mr. B.S. Patel and Ms. Harsha Devani waive service of notice of admission for the respondent no. 1 and respondent nos. 2 and 3 respectively.

#. When this matter is taken up for final hearing at the instance of the learned counsel for all the parties, our attention is drawn to the order dated 7th July, 2003 made by the Registrar, Cooperative Societies, Gujarat State, Gandhinagar, under Section 98(2) of the Gujarat Cooperative Societies, 1961, authorizing Mr. D.P.

Joshi, Joint Registrar (Cooperative Societies), to decide the Arbitration Suits in which Vadodara District Cooperative Milk Producers Union Ltd. Vadodara may be a party. In the present case, the dispute centered around the jurisdiction of the Registrar's Nominee-respondent no. 3, who was entertaining the suits in which the said Cooperative Society was a party, and who made some interim orders against which the petitions were filed.

#. In the writ petitions which were directed against the orders of the respondent no. 3, it was contended that the Registrar's Nominee had no jurisdiction to entertain the proceedings in view of the proviso to Section 98(1) of the Act, under which no person who was connected with a dispute or with the Society at any stage or had previously inspected the Society or audited its accounts could be appointed as Nominee or as Member of the Board of Nominees to settle the dispute. The learned Single Judge held that the Lavad Suit filed before the Registrar's Nominee was not maintainable as he had no jurisdiction to entertain the suit. There is no dispute about the fact that the said Registrar's Nominee had audited the accounts of the Society.

#. The government has now come out with the order dated 7th July, 2003, appointing Shri D.P. Joshi, as Nominee for hearing the suits in which the respondent-Society is a party. In view of this order, we asked the learned counsel appearing for both the sides as to whether the parties would be amenable to appearing before the newly appointed Registrar's Nominee for considering their disputes which were raised in the suits, in view of the fact that the earlier Nominee had no jurisdiction to entertain them. Both the learned counsel have submitted that the parties would be ready to appear before the Registrar's Nominee, now appointed under the order dated 7th July, 2003 for consideration of the disputes which are raised in the suits filed by the appellants, and that even the question of any interim relief that may be raised will be considered afresh by the Registrar's Nominee. Since the earlier Registrar's Nominee had no jurisdiction to go into the disputes raised by the appellants in view of the proviso to Section 98(1) of the said Act, and since now another Registrar's Nominee is appointed for hearing such suits, it would be in fitness of things to relegate the parties to appear before the newly appointed Registrar's Nominee for considering all the disputes which have been raised in the suits filed by the appellants, including the matter of issuance of interim orders that may arise and other contentions that

may be raised by either party before the Registrar's Nominee.

#. We accordingly direct the appellants in these appeals and the respondent-Society to appear before the newly appointed Registrar's Nominee Mr. D.P. Joshi, in connection with the disputes raised in the suits filed by the appellants in the Lavad Suits and the applications that may have been made in such suits, and those that may be made hereafter by them and direct that the newly appointed Registrar's Nominee shall take up the proceedings and consider the disputes and other incidental questions that may arise before him afresh without being influenced by any interim orders hitherto made by the earlier nominee or any interim orders made by this Court. For the purpose of consideration of the matter afresh as aforesaid, the impugned order of the learned Single Judge will now become inoperative.

#. The Registrar's Nominee shall issue notices to the concerned parties within one week from the date of the receipt of this order, requiring them to appear before him, in respect of the proceedings filed by the appellants. The learned counsel appearing for the respondent-Society states that the Society undertakes to maintain status-quo which is operative till today, until necessary orders are made by the learned Registrar's Nominee.

#. The Registrar's Nominee shall consider the disputes that may have been raised as well as the interim relief applications expeditiously, preferably within two weeks from the date on which they are heard by the learned Registrar's Nominee.

#. All these appeals stand disposed of accordingly with no order as to costs. All the applications made herein do not now survive in view of this order and are disposed of accordingly with no order as to costs.

[R.K. ABICHANDANI, J.]

[KUNDAN SINGH, J.]
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